

1 Stephen M. Gallenson, CSB #104447  
2 ANDRIAN & GALLENSON  
3 1100 Mendocino Avenue  
4 Santa Rosa, California 95401  
5 (707) 527-9381

6 Attorneys for Plaintiff,  
7 HUEDELL FREEMAN  
8  
9

10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**  
12

13 HUEDELL FREEMAN,

CASE NO.

14 Plaintiff,

*UNLIMITED CIVIL CASE*

15 vs.

**COMPLAINT FOR VIOLATIONS OF  
16 CIVIL RIGHTS AND FOR DAMAGES  
17 AND INJUNCTIVE RELIEF**

18 CITY OF ROHNERT PARK, a  
19 government agency; ROHNERT PARK  
20 DEPARTMENT OF PUBLIC SAFETY; a  
21 government agency, BRANDON "JACY"  
22 TATUM, an individual; JOSEPH  
23 HUFFAKER, an individual; DAVID  
24 SUTTER, an individual; BRIAN  
25 MASTERSON an individual; and DOES  
26 1-25 inclusive,  
27 Defendants.

**JURY TRIAL DEMANDED**

28 **JURISDICTION AND VENUE**

1. This action arises under Title 42 of the United States Code section 1983,  
and the Fourth, Fifth, and Fourteenth Amendments of the United States Constitution.

///

1 Jurisdiction is conferred upon the Court by Title 28 of the United States Code sections  
2 1331, and 1343.

3 2. Venue is proper in this District pursuant to Title 28 of the United States  
4 Code section 1391(b)(2) because the Northern District of California is the judicial district  
5 in which a substantial part of the events or omissions giving rise to the claim occurred  
6 and in which the parties to this litigation reside.

7 3. On June 27, 2017, pursuant to California Government Code section 910,  
8 Plaintiff timely filed a claim for damages against the City of Rohnert Park. (**Exhibit A.**)  
9 On July 25, 2017, the City of Rohnert Park denied the claim. (**Exhibit B.**)

10 **PARTIES**

11 4. Plaintiff HUEDELL FREEMAN (hereinafter "Plaintiff") presently is, and at  
12 all times herein mentioned was, a resident of Mendocino County, California, and a citizen  
13 of the United States.

14 5. Defendant, CITY OF ROHNERT PARK (hereinafter "City") is a  
15 governmental entity, duly organized and existing under the laws of the State of California.

16 6. Defendant, ROHNERT PARK DEPARTMENT OF PUBLIC SAFETY  
17 (hereinafter "RPDPS"), is and was, at all times mentioned herein, a municipal entity duly  
18 organized and existing under the laws of the State of California.

19 7. Defendants BRANDON "JACY" TATUM (hereinafter "Tatum"), BRIAN  
20 MASTERSON (hereinafter "Masterson"), JOSEPH HUFFAKER (hereinafter "Huffaker")  
21 and DAVID SUTTER (hereinafter "Sutter") are, or at the time of the events herein were,  
22 employed by Defendants City and RPDPS and are sued in their individual capacities. At  
23 all times referenced herein Defendant Masterson was the Chief of RPDPS. In engaging  
24 in the conduct described herein, said Defendants acted under color of law and in the  
25 course and scope of their employment by Defendants City and RPDPS.

26 8. Plaintiff is ignorant of the true names and/or capacities of Defendants sued  
27 herein as Does 1 through 25, inclusive, and therefore sues such Defendants by fictitious  
28 names. Plaintiff is informed and believes that DOES 1 through 25, and each of them,

1 were responsible in some manner for the acts or omissions alleged herein. Plaintiff will  
2 seek leave to amend this complaint to add their true names and capacities when they  
3 have been ascertained.

4 9. In doing the acts and/or omissions alleged herein, Defendants, and each  
5 of them, acted under color of authority and/or under color of state law, and in concert  
6 with each other.

7 10. Defendants Tatum, Huffaker, Sutter and Does 1 through 25 conspired to  
8 achieve a common goal and/or acted in concert to achieve said goal. In doing the acts  
9 and omissions alleged herein, Defendants, and each of them, conspired and/or acted in  
10 furtherance of the conspiracy to a) unlawfully detain and stop Plaintiff and seize his  
11 property, and b) deprive Plaintiff of his property without due process of law and through  
12 the outrageous abuse of police powers.

13  
14 **FACTUAL BACKGROUND**

15 11. On December 29, 2016, at approximately 1:40 p.m. Sergeant Brandon  
16 “Jacy” Tatum and Officer Joseph Huffaker were “on duty” traveling on Highway 101 near  
17 Cloverdale in a marked RPDPS patrol vehicle. Cloverdale is approximately 40 miles  
18 north of Rohnert Park and well outside the jurisdiction of RPDPS. (Incident Report  
19 attached as **Exhibit C.**)

20 12. Plaintiff is and was, at all times material to this complaint, properly licensed  
21 in Mendocino County to cultivate and possess marijuana as part owner of a dispensary  
22 in Mendocino County. He also is and was, at all times material to this complaint, a  
23 contributing member of the Higher Path dispensary in Sherman Oaks, in the County of  
24 Los Angeles.

25 13. At the time of his detention, Plaintiff had just begun the lengthy journey  
26 south to deliver approximately forty-seven pounds of packaged marijuana to the Higher  
27 Path dispensary in Southern California. He was traveling in a rental car with the  
28 marijuana appropriately packaged, sealed, and stored in the trunk.

1           14. Plaintiff was traveling southbound on Highway 101 while Defendants  
2 Tatum and Huffaker were traveling northbound. Defendant Huffaker claimed that he saw  
3 Plaintiff's right tires briefly touch the fog-line twice and that, on that basis, he and  
4 Defendant Tatum decided to conduct an enforcement stop based on a violation of  
5 Vehicle Code section 21658(a), failure to maintain lane. After they passed Plaintiff  
6 traveling in the opposite direction, Defendants made an abrupt U-turn, crossing the wide  
7 grassy median onto the southbound roadway. They immediately activated their lights,  
8 and initiated a traffic stop near the town of Asti, California. **(Exhibit C)**

9           15. Plaintiff's tires did not touch the fog-line as reported. Even if they had, such  
10 an act is not unlawful. Plaintiff is informed and believes, and on that bases alleges herein,  
11 that it is not typical for officers like Defendants Tatum and Huffaker to conduct routine  
12 traffic infraction stops so far outside of their city's jurisdiction, unless that stop is a pre-  
13 textual stop to conduct a criminal investigation into marijuana-related activities.

14           16. Upon contact with Plaintiff, Defendants Tatum and Huffaker did not write a  
15 citation for touching the fog-line but instead immediately began a marijuana investigation,  
16 asking Plaintiff if there was marijuana in the car. **(Exhibit C)**

17           17. Plaintiff informed Defendants he had marijuana in the car and that he was  
18 bringing it to a dispensary in Sherman Oaks, California, called the Higher Path. Plaintiff  
19 was carrying all necessary paperwork that existed at that time to show he was  
20 transporting marijuana lawfully under state law and showed Defendants the  
21 documentation that demonstrated the marijuana was legally cultivated and possessed.  
22 This paperwork included evidence of the lawful origin of the marijuana as well as the  
23 destination, and demonstrated the marijuana was legally grown under a permit issued  
24 by the Mendocino Sheriff's Department. Defendant Huffaker told Plaintiff he did not have  
25 any paperwork specifically allowing marijuana transportation, which Huffaker knew was  
26 not available at that time to persons transporting marijuana. Plaintiff informed Huffaker  
27 that he believed the documents he had allowed him to lawfully transport marijuana.  
28 **(Exhibit C)**

1           18. During the detention Defendant Huffaker contacted Colin Stewart at the  
2 Higher Path dispensary, who confirmed that Plaintiff was a member-cultivator for the  
3 collective and that he was expected to be delivering marijuana in the next day or two.  
4 Defendant Huffaker also contacted Plaintiff's attorney, Hannah Nelson, who confirmed  
5 that Plaintiff was a licensed and lawful cultivator of marijuana in Mendocino County and  
6 that he legitimately belonged to, and was a designated provider for, the Higher Path. Ms.  
7 Nelson also offered to put Defendants Huffaker and Tatum in contact with a Mendocino  
8 County official who would verify that Plaintiff was acting lawfully in transporting medical  
9 marijuana. Defendants declined the invitation.

10           19. Defendants Huffaker and Tatum searched Plaintiff's rental car and found  
11 forty-seven pounds of medical marijuana in the trunk. Without contacting a City Attorney,  
12 Deputy District Attorney, or Magistrate, Defendants seized all of it. (**Exhibit C.**)

13           20. No citation was issued for failing to maintain the lane, though a citation was  
14 issued for possession of marijuana. Criminal charges were never filed in connection with  
15 the seized marijuana.

16           21. On January 4, 2017, Attorney Nelson, wrote a letter to Defendants RPDPS,  
17 Tatum, and Huffaker, describing the stop and her interaction with Defendant Huffaker.  
18 She also outlined all of the reasons why the marijuana was lawfully transported and  
19 should not have been seized. (Nelson, Letter to Rohnert Park Police Department  
20 (January 4, 2017), attached as **Exhibit D.**) She requested the marijuana be returned  
21 immediately. Instead Plaintiff was notified that the marijuana had already been  
22 destroyed. Plaintiff is informed and believes, and on that basis alleges herein, that no  
23 destruction order was ever filed with the Sonoma County Superior Court relating to  
24 Plaintiff's marijuana.

25           22. All of the above occurred without a warrant and without probable cause to  
26 believe Plaintiff had committed a crime under California state law.

27 ///

28 ///

1           23. At all times mentioned herein regarding the actions of Defendants Huffaker  
2 and Tatum regarding the unlawful detention of Plaintiff and subsequent search and  
3 seizure, Defendants acted intentionally and with reckless disregard for the truth.

4           24. Plaintiff is informed and believes, and on that basis alleges herein, that  
5 Defendants City of Rohnert Park, RPDPS and Masterson were aware of and condoned  
6 the pre-textual stops of motorists traveling on the highway outside of Defendant City's  
7 jurisdiction in order to collect for themselves the substantial revenue that can be obtained  
8 from forfeitures of marijuana and U.S. Currency.

9           25. Plaintiff is informed and believes, and on that basis alleges herein, that  
10 Defendants Huffaker and Tatum initiated the stop based on information they had  
11 received from an unnamed source, and that that information was deliberately withheld  
12 from the Incident Report prepared by Defendant Huffaker and approved by Defendant  
13 Sutter.

14           26. Plaintiff is informed and believes, and on that basis alleges herein, that  
15 Defendants City, RPDPS and Masterson conducted an internal investigation relative to  
16 the above-stated facts and that these Defendants did not counsel or discipline  
17 Defendants Huffaker and Tatum in any way for their conduct. Plaintiff is informed and  
18 believes, and on that basis alleges herein, that the final decision-makers of Defendants  
19 City and RPDPS supported and ratified the conduct of Defendants Huffaker and Tatum  
20 related to Plaintiff on December 29, 2016.

21           27. Plaintiff is informed and believes, and on that basis alleges herein, that  
22 Defendants City, RPDPS and Masterson had a policy of promoting and giving awards to  
23 its officers based on the amount of revenue each officer created by civil asset forfeitures.  
24 Such a policy, promulgated by Defendants City and RPDPS, created an environment  
25 that incentivized officers to make as many detentions and seizures of cash and marijuana  
26 as possible without any regard for the constitutional rights of individuals contacted by  
27 RPDPS officers. Plaintiff is informed and believes that said policy motivated Officers  
28 ///

Huffaker and Tatum to unlawfully detain and search Plaintiff and unlawfully seize his personal property, to wit, forty-seven pounds of medical marijuana.

28. As to the conduct described herein, Defendants Huffaker, Tatum, Sutter, and Does 1 through 25 acted willfully, wantonly, maliciously, oppressively, and with conscious disregard and deliberate indifference to Plaintiff's rights.

**FIRST CAUSE OF ACTION**

**42 U.S.C. § 1983 – Unlawful Detention**

**Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25**

29. Plaintiff hereby alleges and incorporates by reference as though fully set forth herein all prior paragraphs of this complaint.

30. Defendants Huffaker, Tatum, Sutter, and Does 1 through 25 violated Plaintiff's constitutional right to be free from an unreasonable and unlawful warrantless detention, as guaranteed by the Fourth Amendment of the Constitution. Defendants, and each of them, lacked reasonable suspicion that Plaintiff had committed any crime or traffic infraction when they stopped and detained Plaintiff.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

**SECOND CAUSE OF ACTION**

**42 U.S.C. § 1983 – Unlawful Search & Seizure**

**Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25**

31. Plaintiff hereby alleges and incorporates by reference as though fully set forth herein all prior paragraphs of this complaint.

32. Defendants Huffaker, Tatum, Sutter, and Does 1 through 25 violated Plaintiff's constitutional right to be free from unreasonable and unlawful warrantless searches and seizures, as guaranteed by the Fourth Amendment of the United States Constitution when Defendants searched the trunk of Plaintiff's vehicle and seized Plaintiff's marijuana. Defendants lacked probable cause to search the trunk of Plaintiff's vehicle and seize the marijuana.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

**THIRD CAUSE OF ACTION**

**42 U.S.C. § 1983 –Due Process**

**Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25**

33. Plaintiff hereby alleges and incorporates by reference as though fully set forth herein all prior paragraphs of this complaint.

34. At all times referenced above, Defendants, and each of them, deliberately fabricated and mischaracterized evidence in order to justify and support the detention of Plaintiff and the seizure of Plaintiff's marijuana all in violation of Plaintiff's right to due process of law under the Fifth and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

**FOURTH CAUSE OF ACTION**

**42 U.S.C. § 1983 – Substantive Due Process**

**Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25**

35. Plaintiff hereby alleges and incorporates by reference as though fully set forth herein all prior paragraphs of this complaint.

36. The acts of Defendants as described herein shock the conscience and constitute an outrageous abuse of police power. As a result of said acts, Plaintiff was deprived of substantive due process in violation of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

**FIFTH CAUSE OF ACTION**

**42 U.S.C. § 1983 – Procedural Due Process**

**Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25**

37. Plaintiff hereby alleges and incorporates by reference as though fully set forth herein all prior paragraphs of this Complaint.

38. Defendants deprived Plaintiff of his lawfully possessed property without due process of law. Plaintiff's property was seized without giving him the right to contest



1 the confiscation of his property through a forfeiture proceeding or other procedure that  
2 would provide a fair hearing and due process of law.

3 39. Plaintiff is protected from government takings without due process of law  
4 by the Fifth and Fourteenth Amendment of the United States Constitution. By taking  
5 Plaintiff's property and not making an accurate report of the event, or initiating forfeiture  
6 proceedings that would provide a fair hearing for Plaintiff to contest the government  
7 taking of his property, Plaintiff was deprived by Defendants of procedural due process of  
8 law in violation of the Fourteenth Amendment.

9 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

10  
11 **SIXTH CAUSE OF ACTION**  
12 **42 U.S.C. § 1983 – Municipal Liability**  
**The City of Rohnert Park and RPDPS**

13 40. Plaintiff hereby alleges and incorporates by reference as though fully set  
14 forth herein all prior paragraphs of this Complaint.

15 41. As against Defendants City and RPDPS, Plaintiff further alleges that the  
16 acts and/or omissions alleged in this Complaint herein are indicative and representative  
17 of a repeated course of conduct by members of RPDPS tantamount to a custom, policy,  
18 or repeated practice of condoning and tacitly encouraging the abuse of police authority  
19 and disregard for the constitutional rights of citizens. Plaintiff is informed and believes  
20 that the acts or omissions of defendants as alleged herein regarding the unlawful  
21 detention and search and seizure were caused by (1) inadequate and arbitrary training,  
22 supervision and discipline of officers by RPDPS; (2) RPDPS's failure to promulgate  
23 appropriate policies with respect to traffic stops and warrantless searches and seizures;  
24 (3) the deliberate indifference of RPDPS to citizen's rights under the Fourth, Fifth and  
25 Fourteenth Amendments to the United States Constitution; (4) customs or *de facto*  
26 policies of RPDPS; and (5) ratification of such policies by final decision makers of the  
27 RPDPS. These failures and actions constitute deliberate indifference on the part of  
28 RPDPS to its obligations to insure the preservation and protection of an individual's

1 constitutional rights. Plaintiff is informed and believes, and on that basis alleges herein,  
2 that Defendant City knew or should have known that its acts and omissions would likely  
3 result in a violation of the Constitutional rights of a person in Plaintiff's situation, and  
4 Defendant City's acts and omissions were a substantial factor in the deprivation of  
5 Plaintiff's constitutional rights and the damages he suffered.

6 42. Plaintiff is informed and believes, and on that bases alleges herein, that  
7 Defendants RPDPS and City had a policy of promoting and giving awards to its officers  
8 based on criteria related to the amount of marijuana and U.S. currency seized for the  
9 purpose of asset forfeiture actions, and that such policy created an environment that  
10 incentivized RPDPS officers to make as many traffic stops as possible, within or outside  
11 of their jurisdiction, in the search for people transporting marijuana, without proper  
12 consideration of the constitutional rights of individuals contacted by RPDPS officers.  
13 Plaintiff is informed and believes, and on that basis alleges herein, that said policy  
14 motivated Officers Huffaker and Tatum to unlawfully detained and search Plaintiff, and  
15 to unlawfully seize his marijuana.

16 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

17  
18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs demand judgment against the Defendants and the  
20 following relief:

- 21 1) For appropriate injunctive relief designed to prevent and deter future  
22 unlawful detentions and seizure of property, during traffic stops, by agents  
23 and employees of the City of Rohnert Park, Jacy Tatum, Joseph Huffaker  
24 and other co-conspirators to be identified.
- 25 2) For compensatory damages, in an amount according to proof;
- 26 3) For general damages, in an amount according to proof;
- 27 4) For an award of punitive and exemplary damages against individual  
28 defendants in an amount according to proof;

- ## JURY TRIAL DEMANDED

Dated: December 20, 2018

\_\_\_\_\_/s/\_\_\_\_\_  
ANDRIAN & GALLESON  
Stephen M. Gallenson  
Attorneys for Plaintiffs

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
  
Huedell Freeman  
  
**(b)** County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)  
  
Mendocino County  
  
**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
  
Stephen M. Gallenson, 1100 Mendocino Avenue, Santa Rosa, CA (707)527-9381

**DEFENDANTS**  
City of Rohnert Park, Rohnert Park Department of Public Safety,  
Brandon "Jacy" Tatum, Joseph Huffaker, David Sutter, Brian  
Masterson Does 1-25  
County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)  
  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.  
  
Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)  
  

1	U.S. Government Plaintiff	3	Federal Question (U.S. Government Not a Party)
2	U.S. Government Defendant	4	Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)  

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment Of Veteran's Benefits 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise	<b>PERSONAL INJURY</b> 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury -Medical Malpractice  <b>CIVIL RIGHTS</b> 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities-- Employment 446 Amer. w/Disabilities--Other 448 Education	<b>PERSONAL INJURY</b> 365 Personal Injury -- Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability  <b>PRISONER PETITIONS</b> <b>HABEAS CORPUS</b> 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty  <b>OTHER</b> 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee-- Conditions of Confinement	625 Drug Related Seizure of Property 21 USC § 881 690 Other  <b>LABOR</b> 710 Fair Labor Standards Act 720 Labor/Management Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> 462 Naturalization Application 465 Other Immigration Actions	422 Appeal 28 USC § 158 423 Withdrawal 28 USC § 157  <b>PROPERTY RIGHTS</b> 820 Copyrights 830 Patent 835 Patent--Abbreviated New Drug Application 840 Trademark  <b>SOCIAL SECURITY</b> 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS--Third Party 26 USC § 7609	375 False Claims Act 376 Qui Tam (31 USC § 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced & Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/ Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding	2 Removed from State Court	3 Remanded from Appellate Court	4 Reinstated or Reopened	5 Transferred from Another District (specify)	6 Multidistrict Litigation--Transfer	8 Multidistrict Litigation--Direct File
-----------------------	----------------------------	---------------------------------	--------------------------	---	--------------------------------------	---

**VI. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
  
Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.	DEMAND \$	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> Yes No
--	-----------	--

**VIII. RELATED CASE(S), IF ANY** (See instructions):

JUDGE	DOCKET NUMBER
-------	---------------

**IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)**  
(Place an "X" in One Box Only)

SAN FRANCISCO/OAKLAND	SAN JOSE	EUREKA-MCKINLEYVILLE
-----------------------	----------	----------------------

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

**Authority For Civil Cover Sheet.** The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
  - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
  - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
  - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
  - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
  - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

File With:

RESERVE FOR FILING STAMP  
CLAIM NO. C 2017-19

ROHNERT PARK

JUN 27 2017  
Hand delivered  
CITY CLERKCity of Rohnert Park  
ATTN: City Clerk's Office  
130 Avram Avenue  
Rohnert Park, CA 94928**CLAIM FOR MONEY OR  
DAMAGES AGAINST THE  
CITY OF ROHNERT PARK**Copy: ☒ REMIT ☒ CM ☒ AC ☒ M  
CA ☒ FILE ☒ Depl. ☒ Masterson/  
Johns on

All claims against the City for money or damages not otherwise governed by the Government Tort Claims Act, California Government Code Sections 900 et seq., or other state law (hereinafter "claims") shall be presented within the timeframe and in the manner prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900), as that Part may be amended from time to time, and as further provided in Section 2.44.020 of the Rohnert Park Municipal Code.

All claims shall be made in writing and shall contain the information required by California Government Code Section §910.

If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.

## 1. Name and Address of the Claimant:

Name of Claimant: Huedell FreemanMailing Address: P.O. Box 515Philo, California 954662. Mailing address to which the person presenting the claim desires notices to be sent:  
(Specify if different than Claimant's address listed above)Name of Addressee: Chris P. AndrianTelephone: 707-527-9381Mailing Address: Law Offices of Andrian & Gallenson1100 Mendocino AvenueSanta Rosa, California 95401

## 3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

Date of Occurrence: \_\_\_\_\_

Time of Occurrence: \_\_\_\_\_

Location: \_\_\_\_\_

Circumstances giving rise to this claim: SEE ATTACHED

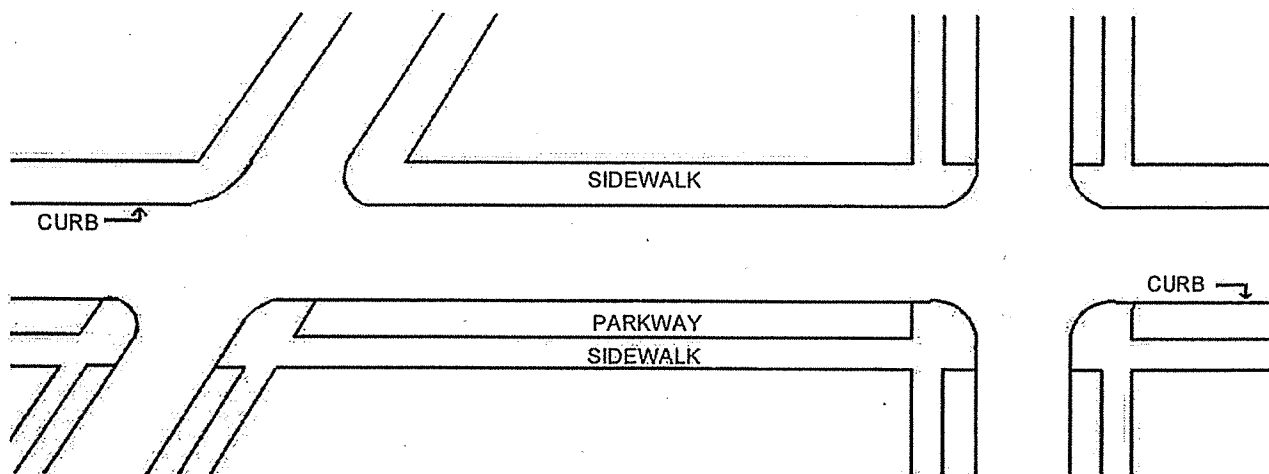
## 4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

SEE ATTACHED

READ CAREFULLY

For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers of distances to street corners. If City/Agency Vehicle was involved, designate by letter "A" location of City/Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City/Agency Vehicle; location of City/Agency Vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



**Warning:** Presentation of a false claim with the intent to defraud is a felony (Penal Code §72). Pursuant to Code of Civil Procedure §1038, the City/Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

All claims shall be verified by the claimant or by his or her guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by Section 2.44.030 of the Rohnert Park Municipal Code.

Signature: Harold Seeman Date: 6/22/17



5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

Joseph Huffaker (RP 439)

Brandon Tatum (RP 35)

David Sutter (RP 403)

6. **If amount claimed totals less than \$10,000:** The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation:

**If amount claimed exceeds \$10,000:** If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. (See CCP § 86.)

☐ Limited Civil Case

☒ Unlimited Civil Case

**You are required to provide the information requested above, plus your signature on page 3 of this form, in order to comply with Government Code §910. In addition, in order to conduct a timely investigation and possible resolution of your claim, the city requests that you answer the following questions.**

7. Claimant(s) Date(s) of Birth:

Huedell Freeman: 09/11/1957

8. Name, address and telephone number of any witnesses to the occurrence or transaction which gave rise to the claim asserted:

9. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment:

*If applicable, please attach any medical bills or reports or similar documents supporting your claim.*

n/a

10. If the claim relates to an automobile accident: n/a

*If applicable, please attach any repair bills, estimates or similar documents supporting your claim.*

Claimant(s) Auto Ins. Co.:

Telephone:

Address:

Insurance Policy No.:

Insurance Broker/Agent:

Telephone:

Address:

Claimant's Veh. Lic. No.:

Vehicle Make/Year:

Claimant's Drivers Lic. No.:

Expiration:





JUL 28 2017

*Paragraphs #3 and #4*

On December 29, 2016, at 1:40 p.m., Sergeant Brandon "Jacy" Tatum (RP357) and Officer Joseph Huffaker (RP439) "were on duty" "in a marked Rohnert Park DPS Police Vehicle" traveling *northbound* on Hwy 101, near Cloverdale.

The Officers observed a vehicle traveling *southbound* that "moved to the right of its lane touching its right tires on the fog line and ... touched the fog line a second time."

Citing CVC 21658(a) ("failure to maintain lane"), the Rohnert Park DPS Patrol Vehicle crossed two northbound lanes; executed a sixty-mile an hour U-turn over the grassy medium, and moved into the slow lane to effectuate the stop.

Suspecting, then finding marijuana packaged in the trunk, the officers asked for and were provided documents identifying the origin of the marijuana (grown under Permit issued by the Mendocino Sheriff) and its destination: a Southern California dispensary, which Officer Huffaker confirmed on the scene.

Without consulting a City Attorney, a Deputy District Attorney or Magistrate, Sgt. Tatum and Officer Huffaker summarily confiscated the marijuana.

**Claims:**

1. The vehicle did not touch the fog line, and if it did, "touching the fog line [even twice] does not give the officer reasonable suspicion to justify the stop." (*United States v. Colin* (9<sup>th</sup> Cir. 2002) 314 F.3d 436, [interpreting CVC 21568(a)].)
2. The detention was prolonged, and the warrantless search and seizure was without probable cause. (*People v. Colvin* (2012) 203 Cal. App. 4<sup>th</sup> 1029 [medical marijuana grown in Humboldt may be transported to a dispensing collective in So. California].)
3. Rohnert Park *policy makers* condoned the pre-textual stop of motorists traveling on an interstate highway, outside the City's jurisdiction, because the potential revenue from forfeitures of marijuana and U.S. Currency was substantial.

**Relief:**

- A. Compensation for the loss of the marijuana.
- B. Declaration from the City that they will not allow its officers to engage in conduct outlined above.

Officer Huffaker and Sgt. Tatum were equipped with Body Cams that captured the majority of the incident. Sgt Tatum prepared a supplemental report.

**THIS IS FORMAL NOTICE TO PRESERVE THE IMAGES AND AUDIO CAPTURED BY THE BODY CAMERAS WORN BY THE OFFICERS.**



July 25, 2017



**City Council**

Jake Mackenzie  
Mayor

Pam Stafford  
Vice Mayor

Amy O. Ahanotu  
Gina Belforte  
Joseph T. Callinan  
Councilmembers

Darrin Jenkins  
City Manager

Don Schwartz  
Assistant City Manager

Michelle Marchetta Kenyon  
City Attorney

Karen Murphy  
Assistant City Attorney

JoAnne Buergler  
City Clerk

Betsy Howze  
Finance Director

Brian Masterson  
Director of Public Safety

John McArthur  
Director of Public Works and  
Community Services

Mary Grace Pawson  
Director of  
Development Services

Victoria Perrault  
Human Resources Director

Chris P. Andrian  
Law Offices of Andrian & Gallenson  
1100 Mendocino Avenue  
Santa Rosa, California 95401

Re: Claim Against the City of Rohnert Park

Dear Mr. Andrian:

As required by law, enclosed is a *Notice of Action on Claim* from the City of Rohnert Park rejecting your claim filed on June 27, 2017. Rejection or denial of this claim amounts to a legal decision that the claim will not be paid by the City of Rohnert Park in whole or in part at this time.

Since the City of Rohnert Park is self-insured and belongs to a governmental risk-sharing pool, the claim and the rejection notice have been forwarded to the Redwood Empire Municipal Insurance Fund (REMIF), the pool's administrator.

Sincerely,

Caitlin Saldanha  
Deputy City Clerk

Enclosures

cc: Chris Carmona, REMIF  
Michelle Marchetta Kenyon, City Attorney

File: Claim File C2017-19

**NOTICE OF ACTION ON CLAIM**

TO: Chris P. Andrian  
Law Offices of Andrian & Gallenson  
1100 Mendocino Avenue  
Santa Rosa, California 95401

**NOTICE IS HEREBY GIVEN** that the communication purporting to be a claim by **Chris P. Andrian (Law Offices of Andrian & Gallenson) obo Huedell Freeman** against the CITY OF ROHNERT PARK dated on June 22, 2017 and received in this office on June 27, 2017, was:

- ☒ Rejected
- ☐ Rejected due to late filing
- ☐ Allowed
- ☐ Allowed in the amount of \$ \_\_\_\_\_ and rejected as to the balance
- ☐ Rejected by operation of the law

by the City Manager on July 25, 2017.

**WARNING**

Subject to certain exceptions, you will have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a State Court action on this claim [see State of California Government Code §945.6]. Your time for filing an action in Federal Court may be less than six (6) months.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the City of Rohnert Park will seek to recover all costs of defense in the event an action is filed in the matter and it is determined that the action was not brought in good faith and with reasonable cause.

cc: Chris Carmona, REMIF  
Michelle Marchetta Kenyon, City Attorney  
Claim File – C2017-19



# CITY OF ROHNERT PARK DEPARTMENT OF PUBLIC SAFETY

## POLICE AND FIRE SERVICES

Brian Masterson, Director

### APPLICATION FOR RECORD INFORMATION

**REPORT FEE \$10.00 \*\*\* EXACT CASH OR CHECK ONLY\*\*\***

CASE#: CR 16-5412 Is this a Domestic Violence or Identity Theft report? Yes ☐ No ☒ (please circle)

1. REPORT TYPE: ( ) Accident ( ) <sup>\*SEE ATTACHED</sup> Arrest ( ) Crime ( ) Fire (\$10.00 for each report)  
( ) Calls for Service ( ) Location History (\$5.00 for each printout)

2. LOCATION OF INCIDENT: HWY 101 @ ASTI

DATE 12/29/16 TIME 1347

3. PERSONS INVOLVED: ☒ Driver, ☐ Passenger, ☐ Victim, ☐ Property Owner, Etc.)

FREEMAN HUEDELL  
LAST NAME FIRST NAME INITIAL

9/11/17  
DATE OF BIRTH **RECEIVED**

4. REASON FOR REQUEST: (Complete A or B below, sign and date)

A. I represent the individual on line 3 with his/her consent and I AM:

( ) The Individual Named ( ) The Individual's Parent  
( ) The Individual's Spouse ( ) Insurance Agent

☒ The Individual's Attorney  
( ) Other: **DEPT. OF PUBLIC SAFETY  
CITY OF ROHNERT PARK**

B. ( ) I do not represent the individual on line 3. My request for information is based upon my belief that I am entitled to such information due to:

NAME (please print): CHRIS P. ANDRIAN, ATTORNEY AT LAW  
MAILING ADDRESS: 1100 MENDOCINO AVE, SR 95401  
HOME PHONE: 707.527.9381 WORK PHONE: 707.527.9381 CELL PHONE: \_\_\_\_\_  
DRIVER'S LICENSE NUMBER: KO215076  
SIGNATURE: [Signature] DATE: 5/18/17  
AGENCY REPRESENTED (if any): ATTORNEY FOR HUEDELL FREEMAN

**NOTE: Reports are processed within 10 working days. An incomplete request may delay our response. If we determine that the report is unavailable for release, we will notify you in writing or by phone (GOVT. CODE SEC. 6256).**

DO NOT WRITE BELOW THIS LINE

Paid ☐ Amount Paid: \_\_\_\_\_ Receipt #: \_\_\_\_\_ by: \_\_\_\_\_

Disposition: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

Notes/Comments on redaction: \_\_\_\_\_

500 CITY CENTER DRIVE ~ ROHNERT PARK, CALIFORNIA ~ 94928-2118

Phone: (707) 584-2600 fax: (707) 584-2683

**Incident/Investigation Report**

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

**Incident Information**

Date/Time Reported 12/29/2016 13:40	Date/Time Occurred 12/29/2016 13:40	Date/Time Found 12/29/2016 13:40	Officer (RP439) HUFFAKER, JOSEPH
Incident Location SB ASTI RD OFFRAMP / SB ASTI RD ONRAMP, CLO, CA 94928			Supervising Officer (RP403) SUTTER, DAVID
Location Comments : @SB 101 AT ASTI			
Case Status 849 (B)(2) DETENTION			Disposition 4519

**Charges**

<b>1</b>	Charge Type State	Description (MISD) POSSESS MORE THAN 28.5 GRAMS OF MARIJUANA	Statute 11357 (B)(2)	UCR 35A	<input type="checkbox"/> Alt <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type HIGHWAY/ROAD/ALLEY	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input type="checkbox"/> No	Weapons 1. 2. 3.
Entry	Exit	Criminal Activity			
Bias Motivation		Bias Target	Bias Circumstances		Hate Group

**Vehicles**

Seq. # <b>1</b>	Year 2016	Color SILVER	Style SEDAN, 4 DOOR	Make CHRYSLER	Model 300
VIN	License Plate Type	License / State [REDACTED]	License Year 0	Owner	
Status NONE		Status Date 12/29/2016	Value		
Vehicle Notes					

ROHNERT PARK  
Department of Public Safety

CONTROLLED  
DOCUMENT  
NOT TO BE  
DUPLICATED

TO: Andrian & Gallensor  
BY: [Signature]  
DATE: 5/26/17

## Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

### Narratives

\*\*\*\*\* December 29th, 2016, Report 16-5412\*\*\*\*\*

During this incident Sergeant Tatum and I were equipped with an audio and video recording body worn cameras, which captured the majority of this incident.

#### FIRST OBSERVATIONS

Sergeant Tatum and I were on duty in a marked Rohnert Park DPS Police Vehicle traveling on Hwy 101 near Cloverdale when we observed a silver Chrysler 300 CA license [REDACTED].

As I was watching the vehicle it moved to the right of its lane, touching its right tires on the fog line. It continued to drive and followed a left hand bend in the road. The vehicle again drifted to the right side of its lane and its right side tires touched the fog line a second time.

Based on the violation of the California Vehicle Code 21658(a) CVC: failure to maintain lane we made an enforcement stop on the vehicle.

#### OBSERVATIONS AFTER STOP

We made contact with the driver who was identified as [REDACTED]  
[REDACTED]

Upon making contact with [REDACTED] and the vehicle, both Sergeant Tatum and I could smell the strong odor of processed marijuana emitting from inside the vehicle. As I leaned closer to the vehicle the marijuana odor increased, which indicated the vehicle was the source of the odor.

As I spoke with [REDACTED] I asked him where he was traveling to. He told me that he was driving to the Bay area. I asked him what his was going to do there and he stated that he was visiting his land partner in Palo Alto.

I asked [REDACTED] if there was any drugs in his vehicle, specifically methamphetamine or heroin he responded "No sir" I asked if there was any cocaine in his vehicle he responded "No sir." I then asked him if there was any marijuana in his vehicle. He told me that there was some, when I asked him how much he responded "Uhhhh, I'm not exactly sure."

I asked [REDACTED] if he had transportation documents for the marijuana and he stated that he did. When I asked him a second time how much marijuana was in the vehicle he now stated that he believed it was about 20-30 pounds.



## Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

### Narratives

█████ stated that they were driving it from his dispensary to a dispensary called The Green Cross in San Francisco then to another dispensary in Sherman Oaks called The Higher Path.

█████ told me that he had transportation documentation for the marijuana in a blue folder in his briefcase located in the vehicle.

Sergeant Tatum had a conversation with █████ during this time.

\*\*\*Refer to his supplemental Report\*\*\*

Based on my training and experience in seizing large amounts of processed marijuana bud in one vehicle, I was confident there was more than one ounce of marijuana bud in this vehicle. The amount of marijuana bud odor emitting was consistent a very large amount of marijuana bud inside. I have also smelled and seized small amounts of marijuana bud from vehicles and that odor was very different from the odor I was dealing with in this vehicle. Ounces or even grams of marijuana give off a lower and less intense odor unlike the overwhelming odor that pounds of marijuana bud give off.

Based on the overwhelming odor of processed marijuana emitting from inside the vehicle we conducted a search.

Upon searching the vehicle we located several bags in the trunk and inside was marijuana one pound bags. In total we located 45 pounds of marijuana bud packaged.

In an attempt to verify if the marijuana located within the trunk was medical marijuana being transported to a dispensary or licensed facility, I looked through the paperwork in the blue folder. █████ had his personal medical marijuana recommendation in the folder and did not have any transportation documentation.

█████ now stated that California law had not issued transportation paperwork. He stated that to his knowledge he could transport between dispensaries. However there was no documents stating that located.

█████ now stated that he was going to Higher Path Dispensary in Sherman Oaks first then Greener Path in San Francisco, despite originally telling me he was driving to the bay area and then later saying that he was driving going to Green Cross Dispensary today.

I asked how much marijuana █████ was transporting to Higher Path. He stated that "they haven't said exactly" and that it would vary and depending on several factors.

## Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

### Narratives

I contacted [REDACTED] at Higher Path, I asked if he knew [REDACTED] and he stated he did. I asked if he knew if [REDACTED] was going to be delivering to him and he stated that he was. He stated that [REDACTED] would be arriving today or tomorrow and would be transporting he thought 30 units to him.

[REDACTED] asked if I could call his lawyer, I contacted his lawyer [REDACTED] via phone and had a conversation with her. I asked why [REDACTED] was transporting marijuana without any transportation documentation and if she had it. She stated that she assumed [REDACTED] was transporting marijuana legally but then told me she was surprised he didn't have marijuana transportation documentation. She also stated that she was currently going to the airport and would not be able to provide me with any since she was out of the office. She requested that I or [REDACTED] call her back later.

#### Indicators of Criminal Activity:

- No marijuana transportation documents
- Driver is a marijuana cultivator and passenger is from out of state
- Discrepancies between both subjects stories
- Story of which dispensary he is driving to first changing
- Originally stating he was driving to Palo Alto to meet his land partner
- Marijuana packaged for sale
- Stating he didn't know the quantity of marijuana in vehicle
- Later stating an incorrect amount of marijuana in the vehicle

Based upon the above items located, I issued him a citation for violation of 11357(b)(2) H&S: possession of over one ounce of marijuana.

The above items were photographed and seized as evidence.

[REDACTED] was released on his signed citation.

As I explained to [REDACTED] what he was being cited for he stated "You're cutting me a break." and he thanked me. I provided him a copy of the citation and informed him he could contact his lawyer later on as we concluded our conversation.

Approximately five minutes later I observed [REDACTED] now driving northbound on Highway 101 despite telling us that [REDACTED] was going to Palo Alto.

## Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

### Narratives

End



Hannah L. Nelson  
Attorney at Law

31452 Airport Road, Fort Bragg, CA 95437

(707) 962-9091 - hannahnelson@hannahnelson.net

**Rohnert Park Police Department**  
500 City Center Drive  
Rohnert Park, CA 94928

January 4, 2017

Sonoma County District Attorney  
600 Administration Drive, 212 J  
Santa Rosa, CA 95403

Re: Rohnert Park PD Case #16-5412

Sgt. J.C. Tatum Badge # 537, Ofcr. Joe Huffakar Badge #429, Christine Giordano, Charging D.A.:

I represent Huedell Freeman who was stopped on 12/29/16 at 13:43 on Highway 101 South Bound at Asti (notably not within Rohnert Park) for an alleged traffic violation.

Mr. Freeman, a licensed and lawful cultivator in Mendocino County, was lawfully transporting medical cannabis to a lawfully licensed dispensary for who he is a member-designated cultivator, when he was pulled over by Officer Huffakar for allegedly crossing over a white line. Mr. Freeman not only disputes that he violated any traffic laws, but has indicated the following facts to me that support the conclusion that this was a pretext stop: Mr. Freeman was driving a rental car. Mr. Freeman had been travelling SB while the Officer had been travelling NB, considerably north of Rohnert Park (Asti), and crossed the meridian to go after Mr. Freeman who was not speeding and who states he was not swerving or driving in any unsafe manner whatsoever [Mr. Freeman is a mature gentleman who generally takes great care in his actions]. After asking for license and registration, **the very first question the Officer asked was whether Mr. Freeman had any marijuana in the vehicle.** Mr. Freeman was cited, but not for any traffic violation. The medical cannabis was confiscated and no receipt or claim form was given to Mr. Freeman. Mr. Freeman was cited for illegal possession of more than an ounce and ordered to appear on March 13, 2017.

Officer Huffakar was asked by my client to telephone me to confirm the validity of the transportation of the medical cannabis. Fortunately, Officer Huffakar did in fact call me and I informed him that Mr. Freeman was a licensed and lawful cultivator in Mendocino County that legitimately belonged to and provided medicine to the dispensary he was transporting to. I informed Officer Huffakar that I would gladly get the



Hannah L. Nelson  
Attorney at Law

31452 Airport Road, Fort Bragg, CA 95437

(707) 962-9091 - hannahnelson@hannahnelson.net

Sheriff or Under Sheriff of Mendocino County on the telephone to confirm that information. I also informed the officer that he should call the dispensary to confirm the validity on that end. When the officer asked if Mr. Freeman had a transportation license, I informed the officer that such licenses are not yet issued by the state or in our local jurisdiction. The officer then asked if Mr. Freeman had transportation "authorization papers." I informed the officer that I did not know. What I meant was that I was not with Mr. Freeman at the time so I had no idea of what he had or did not have with him. I explained that I was not at my office that I was speaking from my hands free mechanism in my car as I was driving on my way to Santa Rosa airport to catch a flight, but I reiterated that I could easily call the Mendocino County Sheriff's Department to get him immediate confirmation and I again urged that the officer telephone the dispensary to confirm the legitimacy on that end. When the officer stated that Mr. Freeman had to have a piece of paper with transportation authorization and that a cultivation permit in Mendocino County was not good enough, I reiterated that he should call the dispensary and I stated that the law does not in fact require a transportation document since there is no transportation license at this time. The officer told me that he had to check with his Sergeant. I specifically requested that the officer either call me back directly or have my client telephone me as soon as the interaction was completed.

My client informed me that the officer did in fact speak to the dispensary and was able to confirm the validity of him as a cultivating member and that the cannabis was lawfully being transported to the dispensary for its patient members. I never received a call from the officer or my client, so much later, after my flight, I telephoned my client. My client informed me that he was not told to call me but rather was told to wait for my call to him.

Regardless of whether this was an illegal pretext stop, there is no legitimate basis for confiscating the medicine or for citing my client with illegal possession of over an ounce. There was an immediate verification of all aspects of the situation. Patients were and still are waiting for that medicine.

Attached is a letter from the dispensary as well as a copy of the valid Mendocino County cultivation permit.

**Please expedite the return of the medicine.** Please also do not refer this to the District Attorney's office for the charge in the citation. Should the matter be referred to the District Attorney's Office, I hope that the charging DA will consider carefully the facts I have presented in this letter and contemplate the resources it



**Hannah L. Nelson**  
Attorney at Law

31452 Airport Road, Fort Bragg, CA 95437

(707) 962-9091 - hannahnelson@hannahnelson.net

would take to prosecute this case when there is ample proof of the legitimacy of this situation. The District Attorney should be aware that we are also prepared to demonstrate that all other aspects of the law have been followed.

I would greatly appreciate a telephone call or email from someone at the Rohnert Park PD to inform me of the status of this situation. There is no reason to delay in the return of the medicine. On a personal note, coincidentally, I am the attorney that obtained the first court-ordered return of medical cannabis to the patient. The case, which began in 1996, went all the way up to the Supreme Court of California and back down for more than 3 years. I fought that case pro bono because I believed that patients should not have to rely on hiring an attorney to ensure the prompt return of their medicine. Though I no longer generally conduct litigation, I have a very personal and vested interest in making sure that the legacy of that decision continues to be upheld and respected.

Thank you for your careful and immediate attention to this matter.

Sincerely,

Hannah L. Nelson

Attorney for Huedell Freeman